



**APPROVED MINUTES**  
**City of Scottsdale**  
**Charter Review Task Force**

**Monday, August 31, 2009**

**City Hall Kiva Forum**  
**3939 N. Drinkwater Blvd.**  
**Scottsdale, AZ 85251**

**PRESENT:** Steven J. Twist, Chair  
Susan Bitter Smith (arrived at 5:09 P.M.)  
Jim Derouin  
Cindi Eberhardt  
Alan Kaufman  
Charlie Smith  
Lisa Johnson Stone (arrived at 5:57 P.M.)

**STAFF:** Brent Stockwell, Senior Advisor  
Carolyn Jagger, City Clerk  
Sherry Scott, Deputy City Attorney

**Call to Order/Roll Call**

Chair Twist called the Charter Review Task Force regular meeting to order at 5:03 P.M. Roll call confirmed the presence of Task Force members as noted.

**1. Opening Remarks by Mayor W.J. "Jim" Lane**

Mayor Lane welcomed members to the first meeting of the Task Force and briefly reviewed the purpose of the body as created by the Mayor and City Council. He highlighted the importance of the Charter. He asked that the Task Force consider reviewing elections as their first order of business. He looks forward to their recommendations and thanked them for their efforts.

**2. Task Force Member Introductions and Opening Statements**

Each Task Force member gave a brief introductory statement.

**3. Staff presentation and discussion regarding State Constitutional provisions and Laws related to City Charters, City Charters in Arizona, and Scottsdale's Charter and History**

Brent Stockwell, Senior Advisor, introduced Sherry Scott, Deputy City Attorney, and Carolyn Jagger, City Clerk, who will aid the Task Force members in their work.

Sherry Scott gave a presentation on State laws addressing city charters. These laws primarily address the process for adoption and amendment, rather than prescribing what should be included. She explained that the City's Charter is the constitution for the City and is the legal framework for operation. State law requires voter approval to adopt or amend a city's charter.

Ms. Scott explained that the legal authority relating to city charters is found in Article 13, Section 2, of the Arizona State Constitution, which authorizes cities to adopt a city charter and offers some process to amend it. Additionally, Arizona Revised Statutes (ARS) 9-281 through 9-285 outline the process for adopting and amending charters. Title 9 also sets forth most of the powers and duties granted to councils, towns, cities, and charter cities, but does not specifically state what has to be included in a charter. It does say, however, that charters must be consistent with State law and the Constitution.

Ms. Scott explained that there is a state law that states that if a charter is in conflict with State law and the issue is a matter of purely local concern, the charter will prevail. She cautioned that it is up to the courts to determine what purely local concern is.

Susan Bitter Smith asked for examples of existing case law showing purely local concern items. Sherry Scott cited city parks regulations restricting the use of firearms, business licensing and some instances of taxation.

Charlie Smith asked if local elections constitute a purely local concern. Ms. Scott confirmed that there is some case law addressing this issue.

Brent Stockwell gave a presentation on the key charter provisions of Arizona cities. The Arizona League of Cities and Towns states that there are 19 cities with city charters in Arizona. Of these, all 19 operate as a council-manager form of government. The City of Phoenix was the first to adopt a charter in 1913. Glendale was second in 1948. The City of Scottsdale adopted a city charter in 1961, which was modeled after the City of Glendale's charter. There are 11 cities that elect council members at large, and seven cities that elect council members through districts or wards. There are nine cities with two-year council member terms and 10 cities with four-year council member's terms.

Mr. Stockwell presented a history of the City of Scottsdale Charter, and said that the Charter was revised once in the 60s, once in the 70s, twice in the 80s, three times in the 90s, and, most recently, in 2000. He outlined the timing considerations and associated costs the city may incur with a charter election.

Jim Derouin requested additional information on recent state law regarding elections. Mr. Stockwell said the information would be provided by the next meeting.

Mr. Stockwell pointed out that there would be a Public Comment time at each meeting. He encouraged attendees to fill out a comment card to speak on issues at the designated time.

Chairman Twist thanked staff for their presentations and service to the Task Force.

#### **4. Presentations by Invited Guests regarding the History, Role and Purpose of City Charters, City Charter Review Processes, and Possible Amendments to the Scottsdale City Charter**

Dr. Jim Svava spoke about ways to approach charter review to enhance the democratic quality of citizen involvement in government. He shared his academic interest in studying and comparing forms of government in the U.S. and Europe, and how managers, councils, and

mayors form relationships and interact with each other. He explained the background and differences between the two models of local government most prevalent in the United States -- the mayor-council and council-manager forms of government.

Dr. Svara stated that this is a unique opportunity to help the citizens of Scottsdale. He observed that the Task Force's challenge will be to create the best structure for an extended period of time, as opposed to using the Charter to fix short term issues and problems. He recommended allowing future councils to solve some problems and make their own decisions as they relate to their specific environment and circumstances.

Chairman Twist thanked Dr. Svara and asked what checks and balances have been created to create auxiliary precautions. Dr. Svara responded that the open, honest, advice of a manager, shared with the council, is invaluable and the most important auxiliary precaution.

Susan Bitter Smith stated that she liked the analogy Dr. Svara used of the hammer and nail and his warning to not be tempted to hit every nail that stood up in their efforts to review the Charter.

Mark Killian, Director, with the ORANGE Coalition, spoke about concerns regarding private property rights. He asked that the Task Force consider language in the Charter to preserve people's civil rights. Mr. Killian said that transparency is important to the revised City Charter. He offered the resources of the ORANGE Coalition to the Task Force members.

Jim Derouin invited the speakers to share anything that relates to transparency issues and asked that they please share issues and concerns with the task force.

Nick Dranias, of the Goldwater Institute, believes there are not enough fundamental checks and balances in the current Charter and that restraint is needed. Mr. Dranias asked the Task Force to focus on efficiency through "Innovative Restraint," citing the ASRS example. He said that the business models of managed competition and performance based policing need to be incorporated in the Charter.

Dr. Byron Schlomach, of the Goldwater Institute, said taxpayers want to know what is being accomplished with their money and what it cost, and that transparency is really about more than just finances. He offered five basic principles to transparency, including trust, government taxes, knowledge, expertise, and ability to identify fraud, waste and abuse. Dr. Schlomach encouraged the City to use the website and to be transparent in all operations.

Jim Derouin asked for information on the subject of prohibiting subsidies, citing the Meyers case. Mr. Dranias believes there should be a very clear and precise definition of subsidies in the Charter.

Jim Derouin asked for information about Prop. 207. Mr. Dranias stated that Prop 207 prevents new land use regulations that diminish the value of property had there not been that new land use regulation.

Susan Bitter Smith expressed interest in coordination rights of federal laws into the City Charter and asked for examples. Mr. Dranias directed her to in-depth footnotes and a link to their example of a "New Charter for American Cities – 10 Rights to Protect," located on their website.

Chairman Twist asked if any cities in Arizona have adopted the local sovereignty provision relating to preserving federalism. Mr. Dranias answered no.

Alan Kaufman expressed interest in the presentations of the Orange Coalition and the Goldwater Institute. He asked if any of these organizations' issues sprang from US Court decisions. Deputy City Attorney Scott answered that she would research the issue. She explained that once the City undertakes something like this in a charter, such as a condemnation action, it will be difficult for the City to move forward.

## **5. Public Comment**

Dick Bowers said that checks and balances are vital to Scottsdale. Mr. Bowers recommended that the Task Force seek a counter point to the Goldwater Institute position, and said their website seems to quote itself to defend their position. He stated that the challenge is to boil those down to specifics and understand the unintended consequences of actions, as well as to understand things that work exceptionally well and to correct things that no longer work.

## **6. Discussion and possible action regarding the process to be used by the Task Force to review the City Charter and make recommendations to the City Council**

Chairman Twist reviewed the draft document outlining the process to be used by the task force to review the Charter. Chairman Twist proposed reviewing the Charter on an article by article basis. He envisioned a process that will allow for citizen comment, public guests, and Task Force recommendations as each article is reviewed. He expressed a desire to wait until the end of the complete review process for implementing final changes.

Charlie Smith asked if public comment at Task Force meetings will be handled with the same rules and process as City Council meetings. Brent Stockwell responded that it will be important for the Task Force to determine how to insure that public comment is obtained throughout the review process. He explained that there will be a public comment period at each meeting. Under the proposed process, each speaker would be limited to three minutes. Chairman Twist asked if there is any discretion on behalf of the Chair to extend public speaking time. Mr. Stockwell confirmed that the Chair has discretion to extend public comment times.

Charlie Smith asked who would be speaking at the Task Force meetings, noting that there is a fine line between being an advocate or an informant. He expressed concern about being perceived as not being fair and not giving time for all sides of the issues to be heard.

Chairman Twist extended an invitation to all people who want to speak.

Charlie Smith stated that the point was not to exclude anyone, while acknowledging that time constraints need to be observed.

Susan Bitter Smith asked if there were any other guest speakers slated to appear before the Task Force. Chairman Twist explained that Catherine Connolly and an attorney would be speaking at the next meeting.

Chairman Twist offered creating a three minute per person, and a five minute per presentation, public comment rule. Jim Derouin agreed, with the exception of guests who are experts on issues.

## **MOTION AND VOTE:**

LISA JOHNSON STONE MOVED THAT THE PROPOSED PROCESS BE ADOPTED, AMENDED WITH A THREE MINUTE/FIVE MINUTE RULE PER SPEAKER FOR PUBLIC COMMENT. SUSAN BITTER SMITH SECONDED, WHICH PASSED 7-0.

**7. Discussion and possible action regarding the meeting calendar of the Task Force**

Chairman Twist suggested that the Task Force address Article 9 and 10 and move back the remaining Articles to meet the election schedule, as suggested by Mayor Lane. City Clerk Carolyn Jagger agreed with the suggestion.

**MOTION AND VOTE:**

ALAN KAUFMAN MOVED TO ADOPT THE DRAFT CALENDAR, AMENDED TO MOVE ARTICLE 9 TO SEPTEMBER 14, AND DIRECT STAFF TO BUMP EACH OF THE REMAINING ITEMS BACK ONE DATE. SUSAN BITTER SMITH SECONDED THE MOTION, WHICH PASSED 7-0.

Charlie Smith asked that examples with specific numbers on how different election language would result in different outcomes be provided at the September 14th meeting. Ms. Jagger replied it would be made available.

Jim Derouin asked for clarification on color coding of the draft working document. Ms. Scott explained that the blue font indicates comments from the legal department. The City Clerk's comments are in red with yellow highlights.

Charlie Smith asked if there will be further revisions to the document. Mr. Stockwell explained that, as each article is reviewed and discussed, there may be more revisions forthcoming.

Chairman Twist requested that all comments be incorporated into one document.

**8. Review Draft agenda for next meeting**

Chairman Twist confirmed that the draft agenda for Sept. 14<sup>th</sup> was revised based on the Task Force discussion.

Charlie Smith asked for clarification of the term "the majority." He asked if it meant 50% of voters that voted, or 50% of ballots cast. Chairman Twist replied that the document suggests that it is 50% of ballots cast.

Cindi Eberhardt asked for clarification on time guidelines regarding election cycle deadlines and the relation to potential amendments to articles two and nine. Chairman Twist explained that sufficient time for voter considerations of proposed amendments would need to be reviewed by the Council in October. Carolyn Jagger said it may be possible for the Council to put Charter election questions on a March 2010 ballot in time to affect the August 24<sup>th</sup> election. She advised that staff will provide an election timeline at the Sept. 14<sup>th</sup> meeting.

**Adjournment**

With no further business to discuss, the meeting adjourned at 7:19 P.M.

**SUBMITTED BY:**  
**Linda Pellegrini**  
Executive Secretary

**REVIEWED BY:**  
**Brent Stockwell**  
Senior Advisor

Officially approved by the Charter Review Task Force on September 28, 2009.